



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,847	02/27/2002	William B. Dragan	P-2354.CIP2	1763
7590	11/07/2003		EXAMINER	
Paul A. Fattibene Fattibene & Fattibene 2480 Post Road Southport, CT 06490			MANAHAN, TODD E	
			ART UNIT	PAPER NUMBER
			3732	

DATE MAILED: 11/07/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/085,847	DRAGAN ET AL.	
	Examiner Todd E. Manahan	Art Unit 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-18 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 24 February 2003 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Stefaniak et al. (United States Patent No. 5,004,124).

Stefaniak et al disclose a dental capsule comprising a body portion 22 having a substantially constant inside diameter, a transition portion 34 adjacent the body portion having a reduced inside diameter and an axis intersecting the axis of the body portion at an angle; and a discharge portion (tip) adjacent the transition portion and having an axis intersecting that of the transition portion at an angle. The body further includes a flange 54.

Claims 1, 4-7, 9 and 10 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Drumm (United States Patent No. 4,969,816 cited by applicant).

Note figures 1 and 2.

Claims 1, 4-7, 9-11, and 16 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Discko, Jr. (United States Patent No. 5,165,890 cited by applicant).

Regarding claims 1, 4, 9-11, see figure 3. Regarding claim 16, see figure 6-8.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stefaniak et al.

Stefaniak et al disclose the claimed invention except for the body-transition angle being 25-35 degrees and the transition-discharge angle being between 15-25 degrees. It would have been obvious to one having ordinary skill in the art at the time the invention was made to from the device with the body-transition angle being 25-35 degrees and the transition-discharge angle being between 15-25 degrees since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Claims 2, 3, 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drumm.

Drumm discloses the claimed invention except for the body-transition angle being 25-35 degrees and the transition-discharge angle being between 15-25 degrees. It would have been obvious to one having ordinary skill in the art at the time the invention was made to from the device with the body-transition angle being 25-35 degrees and the transition-discharge angle being between 15-25 degrees since it has been held that where the general conditions of a claim

are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Claims 2, 3, 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Discko, Jr.*

Discko, Jr. discloses the claimed invention except for the body-transition angle being 25-35 degrees and the transition-discharge angle being between 15-25 degrees. It would have been obvious to one having ordinary skill in the art at the time the invention was made to from the device with the body-transition angle being 25-35 degrees and the transition-discharge angle being between 15-25 degrees since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Claims 8, 13, 15, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Discko, Jr.* in view of *Dragan et al.* (United Sates Patent No. 5,172,807 cited by applicant).

Discko, Jr. discloses the invention essentially as claimed except for the venting groove. *Dragan et al* disclose a dental cartridge with a venting 126 adjacent the flange thereof. It would have been obvious to one skilled in the art to provide the cartridge of *Discko, Jr.* with a venting groove in view of *Dragan et al.* in order to facilitate placement of the piston in the cartridge.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 3732

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd E. Manahan whose telephone number is 703 308-2695.

The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 703 308-2582. The fax phone number for the organization where this application or proceeding is assigned is 703 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-0858.

Todd E. Manahan
Primary Examiner
Art Unit 3732

T. Manahan
06 November 2003

